

**LEGISLATIVE SERVICES AGENCY  
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

200 W. Washington, Suite 301  
Indianapolis, IN 46204  
(317) 233-0696  
<http://www.in.gov/legislative>

**FISCAL IMPACT STATEMENT**

**LS 7381**

**BILL NUMBER: SB 528**

**NOTE PREPARED: Mar 22, 2013**

**BILL AMENDED: Mar 21, 2013**

**SUBJECT:** Gaming.

**FIRST AUTHOR:** Sen. Boots

**FIRST SPONSOR:** Rep. Davis

**BILL STATUS:** CR Adopted 2<sup>nd</sup> House

**FUNDS AFFECTED:** X GENERAL  
X DEDICATED  
FEDERAL

**IMPACT:** State & Local

**Summary of Legislation:** (Amended) The bill does the following:

The bill allows the Indiana Horse Racing Commission (IHRC) to reduce the percentage that a permit holder is required to retain from amounts wagered if reducing the amount retained is in the best interests of horse racing in Indiana.

The bill allows gaming licensees and an operating agent to deduct up to \$2 M per state fiscal year for adjusted gross receipts attributable to free play wagering.

The bill replaces the riverboat admissions tax with a supplemental wagering tax equal to 3.45% of AGR. It specifies the percentage of riverboat supplemental wagering tax to be distributed to various entities. It specifies that the State Fair Commission and the Division of Mental Health and Addiction are not entitled to receive any distributions of riverboat supplemental wagering tax made after June 30, 2014. It reallocates the percentage received by the State Fair Commission and the Division of Mental Health and Addiction to other entities receiving distributions of the tax.

The bill provides that certain local development agreement reports must be made available through the Indiana transparency web site for local government.

The bill establishes the Indiana Gaming Investment Tax Credit for certain capital investments that are made after December 31, 2013, and before January 1, 2019, by a licensed owner or operating agent of a riverboat casino or by a racino licensee. It provides that the amount of the tax credit is equal to 10% of the qualified capital investment made by the taxpayer during the taxable year. It specifies that the total amount

of tax credits awarded may not exceed \$40 M in a state fiscal year. The bill adds gaming agents and gaming control officers to the definition of "law enforcement officer" for purposes of the criminal code. It repeals an obsolete supplemental fee. It makes technical corrections.

**Effective Date:** Upon passage; July 1, 2013; January 1, 2014.

**Summary of NET state impacts:** (Revised) The estimated impact of the bill on state funds is summarized in the table below:

ENTITY / FUND	FY 2013	FY 2014	FY 2015
State General Fund	(\$7.11 M)	(\$6.58 M)	(\$10.18 M)
IEDC		(\$0.01 M)	(\$0.02 M)
State Fair Commission		\$0.12 M	(\$3.33 M)
Division of Mental Health		\$0.08 M	(\$2.23 M)
Thoroughbred Breed Fund	(\$0.05 M)	(\$0.05 M)	(\$0.05 M)
Standardbred Breed Fund	(\$0.06 M)	(\$0.06 M)	(\$0.06 M)
<b>TOTAL</b>	<b>(\$7.22 M)</b>	<b>(\$6.50 M)</b>	<b>(\$15.87 M)</b>

**Explanation of State Expenditures:** (Revised) *Admissions Tax Replaced with a Supplemental Wagering Tax:* The bill repeals the \$3 per patron riverboat admissions tax and replaces it with a 3.45% supplemental riverboat wagering tax beginning in FY 2014. It is estimated that the revenue generated by the supplemental wagering tax would be slightly higher than the revenue collected under the current admissions tax.

The bill provides that in FY 2014 local units and state agencies receiving admissions tax revenue, and the state General Fund, would receive supplemental wagering tax revenue in the same proportions as under the admissions tax. This would result in hold-harmless distributions in FY 2015 to local units and state agencies (the Division of Mental Health and State Fair Commission) currently receiving admissions tax revenue, except for those receiving admissions tax from the French Lick Casino. Beginning in FY 2015, the bill eliminates the supplemental wagering tax distributions to the State Fair Commission and the Division of Mental Health, reduces the distribution to the state General Fund, and redistributes those revenues to local units receiving admissions tax revenue except those receiving revenue from the French Lick Casino. This means that beginning in FY 2016, there will be no supplemental hold-harmless distributions to the Division of Mental Health and the State Fair Commission.

These changes are estimated to have no impact on the supplemental hold-harmless distributions from the state General Fund in FY 2014 and are estimated to reduce such distributions from the state General Fund by \$1.75 M in FY 2015.

Current statute guarantees that local units and state agencies (the State Fair Commission and the Division of Mental Health) receiving admissions tax revenue from riverboat casinos other than from the French Lick Casino will annually receive an amount equal to their FY 2002 admissions tax distribution. Current statute

provides for supplemental hold-harmless distributions to these local units and state agencies equal to the difference between their FY 2002 distribution level and the admissions tax distributed to them during a particular fiscal year. The hold-harmless distribution is made by September 15<sup>th</sup> of the fiscal year following the fiscal year in which the shortfall occurs.

*Pari-Mutuel Wagering Handle Retained by Permit Holder:* The bill allows the Indiana Horse Racing Commission (IHRC), upon request of a horsemen's association, to reduce the statutorily specified shares of the pari-mutuel wagering handle that a permit holder retains under current statute if it is in the best interest of the horse racing industry. The reduction in amounts retained by the permit holder would be used to increase purses. A permit holder withholds: (1) 18% of the total of money wagered on each day at the racetrack or satellite facility; plus (2) an additional 3.5% of the total of all money wagered on exotic wagering pools on each day at the racetrack or satellite facility. Shares of the amounts withheld are required by statute to be retained by the permit holder and used for purses and payment of pari-mutuel taxes.

**Explanation of State Revenues:** (Revised) *Promotional Free Play Deduction for Riverboat Casinos and Racinos:* The bill provides an adjusted gross receipts (AGR) deduction of up to \$2 M annually for promotional free play provided by a riverboat casino or racino to patrons. The bill provides that the deduction is attributable in equal amounts to the qualified wagering by Indiana nonresident patrons and Indiana resident patrons. The deduction is effective upon passage of the bill. The deduction reduces the taxable base for the riverboat wagering tax, the racino wagering tax, and the required set aside of racino AGR for horsemen and other purposes. The estimated impact on state funds from the free play deduction is summarized in the table below.

<b>Tax Type</b>	<b>Fund Type</b>	<b>FY 2013</b>	<b>FY 2014</b>	<b>FY 2015</b>
Riverboat Wagering Tax	State General Fund	(\$5.51 M)	(\$5.53 M)	(\$5.53 M)
Racino Wagering Tax	State General Fund	(\$1.3 M)	(\$0.90 M)	(\$0.88 M)
<b>TOTAL</b>		<b>(\$6.81 M)</b>	<b>(\$6.43 M)</b>	<b>(\$6.41 M)</b>

Based on the range of promotional spending reported by casinos in Pennsylvania and New Jersey, it is assumed that all the casinos will claim the full \$2 M AGR deduction beginning in FY 2014. Because the deduction is effective upon passage of the bill, it is estimated that seven out of 13 casinos/racinos will claim the full deduction in FY 2013. The remaining six casinos/racinos will claim between \$1 M and \$2 M of AGR in FY 2013. Some of the revenue loss from the promotional free play deduction could be offset if the deduction induces additional promotional spending by the casinos and racinos, which in turn increases the aggregate amount of spending by gamblers in the state. A small portion of the wagering tax revenue from the French Lick casino is distributed to Indiana Economic Development Corporation (IEDC). The revenue loss estimates are based on the Revenue Technical Committee forecast (December 17, 2012) for gaming revenue.

The racinos are also required to pay 15% of their annual slot machine AGR to the following purposes:(1) Tobacco Master Settlement Fund; (2) Gaming Integrity Fund; (3) the state Breed Development Funds; (4)private horsemen's associations; and (5) horse racing purses. A portion of the 15% payment that exceeds a specified annual cap is deposited in state General Fund. The promotional free play deduction is estimated

to reduce the AGR that is the basis for the 15% payment. The reduction would not affect the payments to the state Gaming Integrity Fund and Tobacco Master Settlement because these payments are fixed dollar amounts. However the reduction would reduce revenue to the other purposes which are percentage distributions, including distributions to the state Breed Development Funds which are administered by the IHRC. The reduction also would impact the distribution to the state General Fund. The impact on state funds is summarized in the table below.

<b>Fund Type</b>	<b>FY 2013</b>	<b>FY 2014</b>	<b>FY 2015</b>
Thoroughbred Breed Fund	(\$0.05 M)	(\$0.05 M)	(\$0.05 M)
Standardbred Breed Fund	(\$0.06 M)	(\$0.06 M)	(\$0.06 M)
State General Fund	(\$0.30 M)	(\$0.26 M)	(\$0.26 M)
<b>TOTAL</b>	<b>(\$0.41 M)</b>	<b>(\$0.37 M)</b>	<b>(\$0.37 M)</b>

(Revised) *Admissions Tax Replaced with a Supplemental Wagering Tax:* The bill repeals the \$3 per patron riverboat admissions tax and replaces it with a 3.45% supplemental riverboat wagering tax. It is estimated that the revenue generated by the supplemental wagering tax would be slightly higher than the revenue collected under the current admissions tax.

The bill provides that in FY 2014 local units and state agencies receiving admissions tax revenue, and the state General Fund, would receive supplemental wagering tax revenue in the same proportions as under the admissions tax. Beginning in FY 2015, the bill eliminates the supplemental wagering tax distributions to the State Fair Commission and the Division of Mental Health, reduces the distribution to the state General Fund, and redistributes those revenues to local units receiving admissions tax revenue except those receiving revenue from the French Lick Casino. The impact on state revenues from repealing the riverboat admissions tax, imposing the supplemental wagering tax on riverboat casinos as a replacement, and changing the distributions of the tax, is summarized in the table below.

<b>Fund Type</b>	<b>FY 2014</b>	<b>FY 2015</b>
State General Fund	\$0.11 M	(\$5.26 M)
IEDC	(\$0.01 M)	(\$0.02 M)
State Fair Commission	\$0.12 M	(\$3.33 M)
Division of Mental Health	\$0.08 M	(\$2.23 M)
<b>TOTAL</b>	<b>\$0.30 M</b>	<b>(\$10.84 M)</b>

(Revised) *Indiana Gaming Investment Tax Credit:* The bill provides a nonrefundable income tax credit for qualified capital investment on a gaming facility that exceeds \$2 M and is made towards: (1) onsite infrastructure improvements; (2) construction of a gaming facility or other buildings; (3) rehabilitation, alteration, or major repair of a gaming facility or other buildings or improvements; (4) installation of fixtures and equipment in a gaming facility or other buildings or improvements. The qualified capital investment must be approved by the IEDC. The tax credit is equal to 10% of the qualified investment. The tax credit could be claimed by a licensed owner, permit holder, or operating agent of any Indiana casino or racino. It provides that the tax credit can be carried forward for up to nine taxable years. The tax credit

could also be assigned to taxpayers constructing amenities related to the gaming facility and that enhance the gaming experience. The assignment must be approved by the IEDC. The total amount of tax credits awarded may not exceed \$40 M in a state fiscal year. The tax credit could be claimed for investments made after December 31, 2013, and before January 1, 2019. This would mean that investment in up to six state fiscal years (FY 2014 to FY 2019) could qualify for the tax credit. Based on the annual cap of \$40 M, the maximum impact from the tax credit could be up to \$240 M claimed for investment in six fiscal years. The actual impact could potentially be lower due to market factors restricting investments of large magnitude in the short term.

**Explanation of Local Expenditures:**

**Explanation of Local Revenues:** *Promotional Free Play Deduction for Riverboat Casino and Racinos:* The deduction reduces the taxable base for the riverboat wagering tax, some of which is distributed to local units, and the 3% county gambling game wagering tax (currently the county slot machine wagering tax). The estimated revenue loss to local units receiving revenue from these taxes is summarized in the table below.

<b>Local Unit</b>	<b>FY 2013</b>	<b>FY 2014</b>	<b>FY 2015</b>
Rising Sun	(\$0.08 M)	(\$0.10 M)	(\$0.10 M)
Gary	(\$0.24 M)	(\$0.25 M)	(\$0.25 M)
French Lick	(\$0.03 M)	(\$0.04 M)	(\$0.04 M)
Orange County	(\$0.03 M)	(\$0.05 M)	(\$0.05 M)
Orange Co. Convention & Visitor's Bureau	(\$0.03 M)	(\$0.04 M)	(\$0.04 M)
Orleans	(\$0.02 M)	(\$0.03 M)	(\$0.03 M)
Paoli	(\$0.02 M)	(\$0.03 M)	(\$0.03 M)
West Baden Springs	(\$0.03 M)	(\$0.04 M)	(\$0.04 M)
Madison County	(\$0.04 M)	(\$0.04 M)	(\$0.04 M)
Shelby County	(\$0.04 M)	(\$0.04 M)	(\$0.04 M)
<b>TOTAL</b>	<b>(\$0.56 M)</b>	<b>(\$0.66 M)</b>	<b>(\$0.66 M)</b>

(Revised) *Admissions Tax Replaced with a Supplemental Wagering Tax:* Local units receiving riverboat admissions tax revenue under current law are estimated to experience a slight increase in total revenue from supplemental wagering tax in FY 2014. Starting FY 2015 the change in distributions of supplemental wagering tax for local units other than local units receiving revenue from the French Lick Casino would lead to a substantial increase in revenue to those local units. (See Explanation of State Expenditures for additional discussion.) They would also experience a corresponding decrease in hold-harmless distributions in the each subsequent fiscal year resulting in no net impact in the long run. However the change in distribution pattern will result in a one time impact in state fiscal year terms. The estimated impact of these provisions on local units receiving admissions tax revenue is summarized in the table below.



<b>Local Unit</b>	<b>FY 2014</b>	<b>FY 2015</b>
Vanderburgh County	\$0.16 M	\$0.32 M
Vanderburgh County Convention and Visitor's Bureau	\$0.02 M	\$0.03 M
Evansville	\$0.16 M	\$0.32 M
Lake County	(\$0.66 M)	\$2.55 M
Lake County Convention & Visitor's Bureau	(\$0.06 M)	\$0.23 M
North West Indiana Law Enforcement Training Center	(\$0.01 M)	\$0.03 M
Gary	(\$0.65 M)	\$0.54 M
East Chicago	(\$0.09 M)	\$0.65 M
Ohio County	(\$0.14 M)	\$0.18 M
Ohio County Convention & Visitor's Bureau	(\$0.01 M)	\$0.02 M
Rising Sun	(\$0.14 M)	\$0.18 M
Dearborn County	\$1.27 M	\$0.86 M
Dearborn County Convention & Visitor's Bureau	\$0.13 M	\$0.09 M
Lawrenceburg	\$1.27 M	\$0.86 M
LaPorte County	(\$0.52 M)	\$0.47 M
LaPorte County Convention & Visitor's Bureau	(\$0.05 M)	\$0.05 M
Michigan City	(\$0.52 M)	\$0.47 M
Harrison County	\$1.25 M	\$1.41 M
Harrison County Convention & Visitor's Bureau	\$0.06 M	\$0.07 M
Switzerland County	\$0.08 M	\$0.59 M
Switzerland County Convention & Visitor's Bureau	\$0	\$0.03 M
Orange County	(\$0.01 M)	(\$0.02 M)
Orleans	\$0	\$0
Paoli	\$0	\$0
French Lick	\$0	(\$0.01 M)
West Baden	\$0	(\$0.01 M)
<b>TOTAL</b>	<b>\$1.54 M</b>	<b>\$9.91 M</b>

**State Agencies Affected:** Indiana Gaming Commission, Indiana Horse Racing Commission, Department of State Revenue, Indiana Economic Development Corporation, State Budget Agency, State Budget Committee, Department of Natural Resources.

**Local Agencies Affected:** Local Units receiving riverboat wagering tax, racino wagering tax, or riverboat admissions tax.

**Information Sources:** Indiana Gaming Commission, Annual Report FY 2011-FY 2012; State Budget Agency, Build Indiana Fund Report FY 2011; OFMA, Casino Data; Revenue Technical Committee Forecast (December 17, 2012); Pennsylvania Gaming Control Board, Gaming Revenue Reports, FY 2010-FY 2012; New Jersey Casino Control Commission, Annual Report 2009-2011.

**Fiscal Analyst:** Randhir Jha, 317- 232-9556.